

SERVICE DATE – AUGUST 10, 2018

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. EP 552 (Sub-No. 22)

RAILROAD REVENUE ADEQUACY—2017 DETERMINATION

Docket No. EP 558 (Sub-No. 21)

RAILROAD COST OF CAPITAL—2017

Docket No. EP 750

UNIFORM RAILROAD COSTING SYSTEM—2017 CALCULATIONS

Decided: August 10, 2018

On February 8, 2018, the Board instituted a proceeding in Railroad Cost of Capital—2017, Docket No. EP 558 (Sub-No. 21), to update the railroad industry's cost of capital for 2017. The Board received comments from the Association of American Railroads (AAR) providing the information used to make the annual cost-of-capital determination. The data submitted with AAR's filing reflected significant accounting adjustments to the rail carriers' 2017 financial reports due to a one-time revaluation of deferred tax liabilities resulting from the reduction of the federal corporate income tax rate in the Tax Cuts and Jobs Act, Pub. L. No. 115-97, 131 Stat. 2054 (2017).<sup>1</sup> Specifically, because Generally Accepted Accounting Principles require that deferred tax assets and liabilities be revalued in the year in which the change in tax rate is enacted,<sup>2</sup> rail carriers revalued their deferred tax liability in 2017, although the reduced tax rate did not go into effect until January 2018.

In Railroad Revenue Adequacy—2017 Determination, EP 552 (Sub-No. 22) et al., slip op. at 2 (STB served July 27, 2018), the Board determined that the rail carriers' accounting adjustments would affect several Board determinations and calculations for 2017. Thus, the Board sought comment on whether one-time adjustments to its 2017 annual cost-of-capital determination, revenue adequacy determination, and Uniform Railroad Costing System calculations to remove the accounting impacts of the Tax Cuts and Jobs Act on rail carriers' deferred tax liability would be appropriate to more accurately reflect the rail carriers' financial

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<sup>1</sup> Enacted December 22, 2017, the Tax Cuts and Jobs Act reduced the federal corporate income tax rate from a maximum of 35% (see 26 U.S.C. § 11(b) (2012)) to a flat 21%, effective January 1, 2018. See Tax Cuts and Jobs Act § 13001(a).

<sup>2</sup> See Financial Accounting Standards Board (FASB) Accounting Standard Codification (ASC) 740-10-25-47.

state for 2017 and, if so, the appropriate adjustment methods. Id. at 3. All Class I railroads were instructed to file, by August 16, 2018, revised figures with the accounting impacts of the carriers' deferred tax revaluations removed, as discussed in Railroad Revenue Adequacy—2017 Determination, EP 552 (Sub-No. 22) et al. Interested parties were requested to submit comments by August 16, 2018, and replies were requested by September 5, 2018.

On August 3, 2018, the Western Coal Traffic League (WCTL) requested a one-month extension, until September 17, 2018, to file comments, with reply comments due on October 8, 2018. According to WCTL, the schedule should be extended given the “consequence” of the issues and the fact the comment period occurs during a common vacation period. WCTL argues that an extension is necessary so that parties can review data, consult with experts, consider the ramifications of the Board’s proposal, and file appropriate comments.

Under 49 C.F.R. § 1104.7(b), the Board may, in its discretion, grant extensions of time “for good cause.” There is good cause to grant an extension to provide some additional time for interested parties to file comments and subsequent replies. Accordingly, the Board will extend the comment and reply deadlines by 20 days to permit interested parties to prepare and submit comments and replies, while not unduly delaying the processing of the Board’s determinations and calculations for 2017.

Therefore, comments will be due September 5, 2018, and replies will be due September 25, 2018. The deadline for the Class I railroads to file their revised figures remains August 16, 2018. The revised figures should be filed in the above-referenced dockets, in compliance with the Board’s regulations at 49 C.F.R. § 1104.12.

It is ordered:

1. The deadline for comments is extended to September 5, 2018; the deadline for replies is extended to September 25, 2018.
2. This decision is effective on its date of service.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.